

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10705-RWZ

FOTINEE FARAH ZAKI

v.

UNITED STATES OF AMERICA

PRETRIAL ORDER

February 9, 2005

ZOBEL, D.J.

This matter having come before the Court at a pretrial conference held pursuant to Rule 16, Fed. R. Civ. P., 28 U.S.C., and Daniel E. Doherty having appeared as counsel for plaintiff Fotinee Farah Zaki; and Gina Y. Walcott-Torres having appeared as counsel for defendant United States of America, the following action was taken:

1. TRIAL

Trial, without a jury, on the issue of liability only is scheduled to commence on July 11, 2005, at 9 a.m. Counsel estimate that it will take one day.

2. ISSUES

Counsel agree that the only issues to be tried in phase I are:

- a) whether defendant's driver was negligent by failing to see plaintiff and then running into her car;

- b) whether plaintiff was negligent by failing to observe the red light and failing to avoid defendant;
- c) whether the negligence of defendant and/or plaintiff caused the accident and plaintiff's injuries; and, if both parties were negligent, the relative culpability of each.

3. WITNESSES

The only witnesses who will testify during this phase of the case are:

Fotinee Zaki

Edward W. Keen

Rachel Vosmus

Marshfield Police Department

4. EXHIBITS

Prior to the commencement of trial on July 11, 2005, counsel shall confer with each other concerning any exhibits each intends to offer and note any objections each may have to the exhibits of the other. All exhibits to which opposing counsel do not object shall be deemed to be admitted into evidence. Counsel shall mark these exhibits, prepare a listing thereof, and file four copies. Objected-to exhibits shall be marked for identification and listed separately.

5. On or before February 11, 2005, counsel shall report the status of settlement negotiations and whether they want the case to be referred to Magistrate Judge Collings for mediation.

DATE

/s/ Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE